

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Spencer Migotsky	Team: Squad #1	CCRB Case #: 201505530	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/04/2015 2:15 PM	Location of Incident: [REDACTED]	Precinct: 52	18 Mo. SOL 1/4/2017	EO SOL 1/4/2017	
Date/Time CV Reported Sun, 07/05/2015 1:49 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 07/05/2015 1:49 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Juan Gomez	27475	953916	PBBX
2. POM James Hannigan	9586	954913	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM James Hannigan	Discourtesy: PO James Hannigan spoke rudely to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM James Hannigan	Abuse: PO James Hannigan stopped § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Juan Gomez	Abuse: PO Juan Gomez stopped § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Juan Gomez	Force: PO Juan Gomez used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM James Hannigan	Force: PO James Hannigan used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On July 4, 2015 at approximately 2:15 pm, § 87(2)(b) was outside talking to his friend, § 87(2)(b) through the window of § 87(2)(b) building located on the first floor of § 87(2)(b) in the Bronx. § 87(2)(b) went back into his apartment and § 87(2)(b) pulled his head back from the window. § 87(2)(b) crossed the street, stood on the sidewalk, smoked a Newport cigarette, and played with his phone when he saw a police car patrolling the street. PO Juan Gomez and PO James Hannigan of Patrol Borough Bronx pulled up and PO Gomez told § 87(2)(b) that he was watching him and that he knew what § 87(2)(b) was doing. § 87(2)(b) told PO Gomez that he was not doing anything. § 87(2)(b) s § 87(2)(b) old nephew, § 87(2)(b) then arrived and the officers left.

The officers passed by § 87(2)(b) and § 87(2)(b) again and PO Hannigan allegedly told § 87(2)(b) “get the fuck out of here” (**Allegation A**). § 87(2)(b) asked why and PO Hannigan told him to leave again. § 87(2)(b) asked what would happen if he stayed and PO Hannigan told him that he would write him a summons. § 87(2)(b) waited for his brother, § 87(2)(b) and when his brother approached the officers followed behind him.

PO Gomez and PO Hannigan approached § 87(2)(b) and asked him why he did not leave and § 87(2)(b) asked why he had to leave. PO Hannigan asked for § 87(2)(b) s ID and § 87(2)(b) handed his ID to PO Hannigan (**Allegation B** and **Allegation C**). PO Gomez said that there was a big group and a summons would be given to him for failure to disperse.

As PO Hannigan wrote the summons, PO Gomez continued to speak with § 87(2)(b) told PO Gomez something to the effect of “without that badge and that gun, it would be a different story, I’ll fuck you up.” PO Gomez then took his handcuffs out, pushed § 87(2)(b) against a car, and tried to handcuff § 87(2)(b) (**Allegation D**). § 87(2)(b) moved his arms away and asked why he was being arrested. § 87(2)(b) did not make any attempt to strike an officer. It is disputed whether he assumed a fighting stance. A scuffle ensued between § 87(2)(b) and the officers and PO Hannigan allegedly pushed § 87(2)(b) (**Allegation E**). As a result, § 87(2)(b) fell on top of PO Gomez, who landed with his back to the ground. As § 87(2)(b) tried to get up, PO Gomez tried to pull him to the ground by grabbing § 87(2)(b) s leg. § 87(2)(b) then allowed the officers to arrest him and PO Gomez handcuffed him. § 87(2)(b) sustained a scrape and bruise to his arm and PO Gomez’s shirt was ripped on the back. § 87(2)(b) was charged with § 87(2)(b).

There was no video or audio recording of this incident.

Mediation, Civil and Criminal Histories

This complaint was unsuitable for mediation because § 87(2)(b) was arrested. § 87(2)(b) A notice of claim was returned with negative results. The charges against § 87(2)(b) for § 87(2)(b), § 87(2)(a) 160.50 were dropped while the charges for § 87(2)(b) t are pending. His next court date is set for § 87(2)(b) (Board Review 01).

Civilian and Officer CCRB Histories

- This is the first and only complaint filed by § 87(2)(b) (Board Review 02).
- PO Hannigan has been a member of the NYPD for 2 years and has 5 allegations over 3 previous cases. All allegations were closed as complainant uncooperative. § 87(2)(g)
- PO Gomez has been a member of the NYPD for 2 years and has 6 allegations over 2 previous cases. PO Gomez has one open complaint for a use of force. § 87(2)(g)

Potential issues

When PO Gomez and PO Hannigan exited their vehicle, § 87(2)(b) started recording. § 87(2)(b)'s friend, § 87(2)(b) also recorded from across the street, however, when asked to provide the video, neither of them did.

§ 87(2)(b) provided § 87(2)(b)'s number but it was out of service. He did not provide any other contact information for him or § 87(2)(b) and when called in order to obtain more information, § 87(2)(b) stated that he did not know either of their dates of birth, addresses, or other phone numbers. § 87(2)(b) was also called several times in order to get a statement from him, however, he either did not answer or said that he would need to check his schedule and would call back to schedule and never did.

Two requests for the summons by number yielded negative results.

Finding and Recommendations

Explanation of Subject Officer Identification

PO Gomez and PO Hannigan both acknowledged in their interviews that they were the officers who stopped and interacted with § 87(2)(b) (Board Review 03 and 04). Furthermore, § 87(2)(b) was clear in differentiating as to which officer took which action (Board Review 05). PO Gomez is Hispanic with brown skin and PO Hannigan is white with light skin. Therefore **Allegations A, B, and D** are pleaded against PO Hannigan and **Allegations C and E** are pleaded against PO Gomez.

Recommendations

Allegation A – PO James Hannigan spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that PO Hannigan told him “get the fuck out of here” when he was standing on a sidewalk near a public park (Board Review 05). PO Gomez did not recall PO Hannigan making this statement and while PO Hannigan denied making the alleged statement, he could not recall whether he used any profanity more generally (Board Review 03 and 04). No witnesses to this allegation were cooperative and no video or audio evidence was provided. § 87(2)(g)

Allegation B – PO James Hannigan stopped § 87(2)(b)

Allegation C – PO Juan Gomez stopped § 87(2)(b)

It is undisputed that § 87(2)(b) was standing on a public sidewalk fidgeting with his phone when PO Hannigan and PO Gomez told him to leave. § 87(2)(b) did not leave and he was standing with at least two other people when PO Gomez and PO Hannigan approached him to issue a summons for disorderly conduct. § 87(2)(b) said that he was with two or three other people while PO Hannigan said he was with five or six and PO Gomez said that he was with more than four people. PO Gomez also said that his nephew was riding a bike on the sidewalk and that when they approached he was cooperative and let off with a warning. PO Hannigan corroborated that § 87(2)(b) was with a civilian who was on a bike. PO Hannigan asked for § 87(2)(b)'s ID, which he produced, and after PO Hannigan obtained § 87(2)(b)'s ID, he started to write him the summons. Both PO Hannigan and PO Gomez stated that people were passing through the area where § 87(2)(b) was standing (Board Review 03, 04, and 05).

While § 87(2)(b) did not mention that there were any people in the vicinity of the area, PO Gomez stated that there were people passing through the area and PO Hannigan stated that there were a couple people coming through (Board Review 03, 04, and 05). The arrest report and the UF-61 both state that § 87(2)(b) was standing with a large group which caused multiple people to walk around him into the street (Board Review 08 and 09).

According to New York State penal law, an individual is guilty of disorderly conduct when one “with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof . . . obstructs vehicular or pedestrian traffic” (Board Review 07). § 87(2)(g)

[illegible]

Allegation D – PO Juan Gomez used physical force against § 87(2)(b)

Allegation E – PO James Hannigan used physical force against § 87(2)(b)

§ 87(2)(b) stated that when he told PO Gomez “you’re not tough, without that gun and that badge, I’ll show you something,” PO Gomez took out his handcuffs and pushed § 87(2)(b) against a car. § 87(2)(b) stated that he moved his arms around and PO Hannigan pushed him causing him to fall onto PO Gomez and scrape his arm on the ground (Board Review 03). The

officers both stated that § 87(2)(b) said, in substance, “without that badge and that gun, I’ll fuck you up” and that PO Gomez then attempted to handcuff § 87(2)(b) who flailed his arms and pushed PO Gomez to the ground and landed on top of him (Board Review 04 and 05).

A scrape to § 87(2)(b)’s arm was photographed during his interview, five days after the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Squad: _____

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date